

In the United States Patent and Trademark Office
on Appeal from the Examiner to the Board
of Patent Appeals and Interferences

In re Application of: James R. Tighe, et al.
Serial No.: 10/810,512
Filed: March 26, 2004
Group No.: 2476
Confirmation No.: 1184
Examiner: Mounir Moutaouakil
For: *Supporting Enhanced Media Communications Using a
Packet-Based Communication Link*

Mail Stop Appeal Brief-Patents

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REPLY BRIEF

Appellants have appealed to this Board from the decision of the Examiner, contained in a Final Office Action mailed April 1, 2010 (the "*Final Office Action*"), finally rejecting Claims 1-22, 24-26, and 33-39. Appellants mailed a Notice of Appeal on June 30, 2010 and filed an Appeal Brief on August 30, 2010. The Examiner responds in an Examiner's Answer mailed September 24, 2010 (the "*Examiner's Answer*"). Appellants respectfully submit this Reply Brief.

ARGUMENTS

The *Examiner's Answer* consists of a restatement of arguments presented in the *Final Office Action*, along with a section responding to Appellants' arguments presented in the Appeal Brief. To reduce the burden on the Board, Appellants specifically address only the section of the *Examiner's Answer* directed to Appellants' arguments in the Appeal Brief. The remaining portions of the *Examiner's Answer* have already been addressed in Appellants' Appeal Brief.

I. Claims 1-8, 10-17, 19-20, 22, 24-26, and 33-39 are allowable because *Bales* and *Schroderus* do not disclose all elements of the claims

A. *Bales* and *Schroderus* do not teach or suggest the claimed configuration of devices

Appellants previously argued that the proposed combination of *Bales* and *Schroderus* fails to teach or suggest the claimed configuration of devices. Appeal Brief, p. 15. In response, the Examiner disagrees, arguing that Figure 1 of *Bales* discloses a telephony device 106 (*i.e.*, communication terminal 106) in communication with a remote telephony device 107 (*i.e.*, communication terminal 107) through multiple computing devices 101-104 (*i.e.*, switch nodes 101-104) which are connected through communication links. *See Examiner's Answer*, p. 12-13. Thus, the Examiner appears to argue that the switch nodes are computing devices even though they are intermediary devices in the communication link between the telephony devices. Because the Examiner has the configuration of devices in reverse from what is claimed, Appellants respectfully disagree.

As the Appellants' claims make clear, the computing devices are not part of the audio communication link. Instead, the computing devices communicate with each other using their respective telephony devices to tunnel messages over the packet-based audio communication link that exists between telephony devices. Therefore, the computing devices cannot be intermediary devices in the audio communication link as the Examiner appears to suggest. Indeed, the claims require establishing a packet-based audio communication link between two telephony devices where each of the telephony devices are coupled to computing devices, and the computing devices use their respective telephony devices to tunnel messages between each other over the established audio communications link. For

example, Claim 1 describes a tunneling “[a] message requesting identification of enhanced media capabilities associated with a remote computing device . . . [and] tunneling the message in the audio communication link [established between a local telephony device and a remote telephony device] to the remote telephony device.”

In addition, other claim elements confirm the Appellants’ claimed configuration of devices. For example, consider the step of “informing a local computing device coupled to the local telephony device of the [established] audio communication link.” The Examiner’s proposed configuration of devices would render this claim element entirely meaningless, because the intermediary devices (*i.e.*, the switch nodes), which the Examiner contends are “computing devices,” would not need to be informed of the established audio communication link because they are already intermediaries for the communication link. Moreover, the Examiner’s proposed configuration of devices further emphasizes that there is no need for tunneling in *Bales*, because if the alleged computing devices (*i.e.*, switch nodes) were to communicate directly with each other along a communication link, tunneling would be totally unnecessary.

Therefore, contrary to the Examiner’s statements, *Bales* does not teach or suggest the claimed configuration of devices.

B. *Bales and Schroderus do not teach or suggest “receiving a message from the local computing device”*

Appellants previously argued that the proposed combination of *Bales* and *Schroderus* fails to teach or suggest “receiving a message from the local computing device [coupled to the local telephony device] . . . requesting identification of enhanced media capabilities associated with a remote computing device [coupled to the remote telephony device].” Appellants’ Appeal Brief, p. 16. In response, the Examiner disagrees, arguing that *Bales* discloses a method wherein node 101 send a request to devices 102-104 requesting identification of media capabilities associated with nodes 102-104 as shown in Figure 2 and column 3, lines 32-60 of *Bales*. *Examiner’s Answer*, pp. 13-15. Appellants respectfully disagree.

Because the Examiner misunderstands the claimed configuration of devices as stated above, *Bales* necessarily fails to describe the claimed communications between them. Moreover, a description of steps for requesting the addition or removal of video bandwidth

during a call by determining whether intermediary switch nodes are capable of providing the video capability does not teach “receiving a message from the local computing device [which is coupled to the local telephony device],” much less such a message “requesting identification of enhanced media capabilities associated with a remote computing device [which is coupled to the remote telephony device].” See *Bales*, col. 3, lines 32-60.

Therefore, *Bales* does not teach or suggest “receiving a message from the local computing device . . . requesting identification of enhanced media capabilities associated with a remote computing device” for “tunneling . . . in the audio communication link [established between a local telephony device and a remote telephony device] to the remote telephony device,” as Claim 1 requires.

C. ***Bales* and *Schroderus* do not teach “tunneling the message in the audio communication link to the remote telephony device”**

Appellants previously argued that the proposed combination of *Bales* and *Schroderus* fails to teach or suggest “tunneling the message in the audio communication link to the remote telephony device” wherein “the message request[s] identification of enhanced media capabilities associated with a remote computing device [which is] coupled to the remote telephony device.” Appeal Brief, pp. 16-18. In response, the Examiner disagrees, arguing that *Schroderus* discloses a method of embedding signaling messages in real time data traffic. *Examiner’s Answer*, pp. 15-16. Appellants respectfully disagree.

Like *Bales*, *Schroderus* fails to teach or suggest the claimed configuration of devices including a local computing device coupled to a local telephony device and a remote computing device coupled to a remote telephony device, wherein the messages between the computing devices are tunneled in the audio communication link established between their respective telephony devices. Moreover, although the Examiner mentions that tunneling may make it unnecessary to reserve another bearer for controlling signaling, the Examiner conveniently overlooks the fact that embedding signaling will cause the system of *Bales* to use additional resources in terms of bandwidth and processing. Also, there is absolutely no reason for *Bales* to use tunneling because the switch nodes (*i.e.*, the alleged computing devices) can directly communicate with each other absent any such embedded signaling. See *Bales*, col. 3, lines 32-60. In other words, *Bales*’ configuration of the communication terminals teaches away from adding embedded signaling, and in fact renders such embedded

signaling entirely unnecessary. In reality, adding embedded signaling could have the adverse effect of injecting additional and unnecessary overhead into the communications in *Bales*. For these reasons, one having ordinary skill in the art would be motivated not to incorporate embedded signaling in *Bales*.

Regardless of the improper motivation to combine, the proposed combination still fails to teach or suggest “tunneling [a] message in the audio communication link to the remote telephony device” to request “identification of enhanced media capabilities associated with a remote computing device [which is] coupled to the remote telephony device.” Interestingly, the communication terminal of *Bales* is in fact capable of providing audio, video, and high speed data capabilities to a logical call. *See Bales*, col. 4, lines 6-8. Moreover, whether a logical call can handle additional capabilities is not limited by the communication terminal itself, but rather by the availability of bandwidth resources to support the additional capability. *See Bales*, col. 4, lines 3-28. Significantly, incorporating embedded signaling from *Scroderus* into the communication terminals of *Bales* does not affect the fact that the communication terminals themselves can handle the additional capabilities. Thus, the proposed combination does not teach or suggest tunneling a “message requesting identification of enhanced media capabilities associated with a remote computing device [which is] coupled to the remote telephony device.”

Conclusion

Appellants have demonstrated that the present disclosure, as claimed, is patentable over the references cited by the Examiner. Therefore, Appellants respectfully request the Board to reverse the final rejection and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

Although Appellants believe no fees are due, the Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
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